United Nations CRPD/C/19/3

Convention on the Rights of Persons with Disabilities

Distr.: General
19 April 2018

Original: English

Committee on the Rights of Persons with Disabilities

Follow-up to concluding observations on State party reports*

I. Introduction

1. The present report contains a summary of the activities of the Committee in relation to the procedure for follow-up to recommendations contained in concluding observations.

2. The procedure mirrors similar procedures adopted across human rights treaty bodies to track the implementation of recommendations considered for priority implementation by States parties.

II. Follow-up activities according to the Convention and the Committee's working methods

3. Under article 35 (2) of the Convention, the Committee is allowed to request States parties to submit reports whenever the Committee deems appropriate.

4. Paragraphs 19–22 of the working methods of the Committee (CRPD/C/5/4) provide that States parties will be requested to focus in a detailed manner on topics of concerns identified by the Committee in its concluding observations. The Committee may appoint one of its members to serve as rapporteur on follow-up to the concluding observations, and States parties will be afforded up to 12 months from the date of notification to provide the information requested.

A. Establishment of the procedure for follow-up

5. In April 2012, at its seventh session, the Committee adopted its procedure for follow-up to concluding observations and appointed a rapporteur on follow-up to concluding observations, mandated to prepare guidelines on the procedure. In April 2017, at its seventeenth session, the Committee appointed a new rapporteur.

B. Guidelines on the procedure for follow-up

6. In April 2014, the rapporteur on follow-up proposed specific guidelines on the procedure for follow-up. In September 2014, at its twelfth session, the Committee adopted the guidelines and included them in the report of that session (CRPD/C/12/2, annex II).

7. The guidelines address the role of the country rapporteur vis-à-vis the rapporteur on follow-up, set out the criteria for identifying recommendations for follow-up and describe

* Adopted by the Committee at its nineteenth session (14 February–9 March 2018).

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the criteria for assessing the replies of States parties. The Committee may consider the replies "satisfactory", "partially satisfactory" or "unsatisfactory".

C. Implementation of the procedure for follow-up

1. Timing

8. The meeting time, budgetary resources and staffing allocated by the General Assembly to the Committee have been used by the Committee primarily to consider reports submitted by States parties as well as communications submitted by individuals or groups of persons alleging that their rights under the Convention have been violated by a State party. In order to address those priorities, the Committee has only dealt with follow-up activities on two occasions: in April 2015, at its thirteenth session, the Committee considered in a private meeting the replies submitted by certain States parties in follow-up to concluding observations; and, in February 2018, at its nineteenth session, it considered the present report on follow-up to concluding observations.

9. In spite of the efforts by the Committee, the backlog of initial reports pending consideration has not been reduced significantly, mainly as a result of the increase in the number of ratifications of the Convention and its Optional Protocol and the number of reports submitted per year. The Committee therefore foresees that, in the future, the time allocated to consider the activities of States parties in follow-up to concluding observations will continue to be scarce.

2. Countries and recommendations identified for follow-up

10. As at December 2017, the Committee had considered 60 initial reports of States parties and 1 initial report of a regional integration organization. The Committee had identified recommendations for follow-up in 50 out of 61 (81 per cent) of the concluding observations adopted in relation to initial reports.

11. The number of recommendations identified for follow-up increased from 7 by 2012 to 94 by 2017.

12. As at December 2017, 38 replies had been submitted of the 67 that had been due, which represents a rather modest 56 per cent compliance rate.

3. Feedback on follow-up provided by stakeholders other than States parties to the Convention

13. The Committee has received very few contributions from other stakeholders, such as organizations of persons with disabilities or national human rights institutions, in relation to the follow-up procedure. Only four written contributions in relation to four different countries have been submitted by such stakeholders.

4. Subject matter of recommendations identified for follow-up

14. The majority (54 per cent) of the 94 recommendations identified for follow-up have been in relation to the following specific provisions of the Convention: 17 (or 17.7 per cent) relate to respect for the physical and psychological integrity of persons with disabilities (arts. 15–17); 13 (or 13.5 per cent) relate to the monitoring and implementation of the Convention (art. 33); 9 (or 9.3 per cent) relate to the implementation of general provisions (arts. 1–4); 7 (or 7.2 per cent) relate to the right to equality and non-discrimination (art. 5); and 5 (or 5.3 per cent) relate to the right to equal recognition before the law (art. 12).

15. Recommendations relating to other provisions of the Convention make up the other 46 per cent. No recommendation for follow-up has been identified in connection with articles 8 (awareness-raising), 20 (personal mobility), 22 (right to privacy), 23 (respect for home and the family), 25 (health), 26 (habilitation and rehabilitation) or 32 (international cooperation).

5. Assessment of replies

16. Of the 38 replies received, 28 (or 74 per cent) could be considered satisfactory or partially satisfactory, in the sense that the States parties appeared to have taken steps to move towards the implementation of the recommendations. Measures included the adoption, repeal or amendment of legislation; changes in policy; or the set-up of bodies or commissions to address the issues raised by the Committee.

17. The other 10 replies (or 26 per cent) could be considered unsatisfactory, in the sense that either no measure had been adopted to address the concerns raised by the Committee or the measures adopted were not in line with the recommended course of action indicated by the Committee.

18. It is noteworthy to mention that replies relating to the implementation of recommendations concerning articles 12 and 33 were prevalent among the unsatisfactory replies. This could be indicative of the ongoing challenges experienced by States parties in moving expeditiously from systems of substituted decision-making to supported decision-making regimes. Similarly, the results demonstrated a persistent misunderstanding among parties to the Convention in relation to the requirement of establishing independent monitoring frameworks, as entities or departments that are part of the executive branch of the Government continue to be included as constituencies in the monitoring framework.

6. Outcome of the assessment of 38 replies to recommendations identified for follow-up

19. No action within the follow-up procedure is envisaged regarding 11 recommendations concerning six countries for which the Committee has already adopted or is about to adopt list of issues under the simplified reporting procedure.

20. Similarly, for 11 replies considered satisfactory, no further action is envisaged.

21. Regarding seven replies considered partially satisfactory, the Committee encouraged the States parties concerned to move forward in adopting appropriate measures to implement its recommendations and to associate persons with disabilities through their representative organizations in that endeavour.

22. Regarding nine replies considered unsatisfactory, the Committee further encouraged the States parties concerned to review their legislation, policies and practices to bring them into compliance with the Convention and to consider the possibility of requesting the Committee's technical assistance, pursuant to article 37 (2) of the Convention.

23. Regarding non-responding States parties, the Committee encouraged them to continue to address its recommendations and to adopt all measures necessary to ensure the implementation of the recommendations. The Committee will address matters identified for follow-up in the next reporting round of the States parties.

24. A note summarizing the information contained in the replies of the States parties and the assessment made by the Committee is available in English on the Committee's web page.

D. Harmonization of working methods regarding follow-up procedures

25. The Committee expresses its appreciation for the above-mentioned note on follow-up to concluding observations prepared by the rapporteur on follow-up, encourages him to continue to assist the Committee in the task of interacting with States parties and other stakeholders in follow-up activities, and also encourages him to take into account the working methods of other human rights treaty bodies with a view to achieving a broader harmonization of working methods across the treaty bodies with respect to follow-up procedures.

III. Next report on follow-up to concluding observations

26. The Committee, during its nineteenth session (14 February–9 March 2018), decided to put on hold the follow-up procedure to concluding observations in view of the insufficient staffing resources in the Secretariat to support the Committee. With regard to follow-up replies of States parties that became due in 2017 or are expected to become due in 2018, the Committee encourages the rapporteur on follow-up to submit a second report on follow-up to concluding observations by no later than the twenty-sixth session of the Committee, or in the second half of 2021.

IV. Reference to the present report in the Committee's biennial report to the General Assembly and the Economic and Social Council

27. The forthcoming biennial report of the Committee, due in early 2019, shall include a reference to the present report.